

## 2003 DRAFTING REQUEST

### Bill

Received: **01/13/2003**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Spencer Black (608) 266-7521**

By/Representing: **Susan**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Tax Credits - individual income**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Black@legis.state.wi.us**

Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Nonrefundable individual income tax credit for child, dependent care

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### Instructions:

See Attached

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 01/13/2003						State
/1			pgreensl 01/13/2003		sbasford 01/13/2003	mbarman 01/21/2003	

FE Sent For:

<END>

At  
intro.

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01/13/2003 01:09:39 PM

Page 2

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Nonrefundable individual income tax credit for child, dependent care

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/?	chanaman	1 1/13 JLD	1/13 PS	1/13 PS			

FE Sent For:

**<END>**

**Shovers, Marc**

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**From:** McMurray, Susan  
**Sent:** Friday, November 22, 2002 11:32 AM  
**To:** Shovers, Marc  
**Subject:** draft request

Friday, November 22, 2002

Hi Mark,

Rep. Black has asked me to ask you to redraft the child care expenses tax credit legislation for the 2003-04 session. The bill was 2001 AB 160.

Please let me know if you have any questions.

Thanks!

Susan McMurray  
Rep. Black's office  
266-5124

# Section 21 of the IRC

- 1 -

## (a) Allowance of credit

### (1) In general

In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the employment-related expenses (as defined in subsection (b)(2)) paid by such individual during the taxable year.

Caution: Section 21(a)(2), below, before amendment by P.L. 107-16, applies to tax years beginning before 01/01/03.

### (2) Applicable percentage defined

For purposes of paragraph (1), the term "applicable percentage" means 30 percent reduced (but not below 20 percent) by 1 percentage point for each \$2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds \$10,000.

Caution: Section 21(a)(2), below, as amended by P.L. 107-16, applies to tax years beginning after 12/31/02.

### (2) *Applicable percentage defined*

*For purposes of paragraph (1), the term "applicable percentage" means 35 percent reduced (but not below 20 percent) by 1 percentage point for each \$2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds \$15,000.*

Caution: Section 21(c), as amended by P.L. 107-16, changes \$2,400 to \$3,000 and \$4,800 to \$6,000 for tax years beginning after 12/31/02.

## (c) Dollar limit on amount creditable

The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed--

- (1) \$2,400 if there is 1 qualifying individual with respect to the taxpayer for such taxable year, or
- (2) \$4,800 if there are 2 or more qualifying individuals with respect to the taxpayer for such taxable year.

The amount determined under paragraph (1) or (2) (whichever is applicable) shall be reduced by the aggregate amount excludable from gross income under section 129 for the taxable year.

## **PERSONAL TAX CREDITS**

### **T2401**

### **DEPENDENT CARE CREDIT**

You may be able to claim the dependent care credit if you incurred expenses to enable you to work or look for work [IRC Sec. 21(a)].

**(a) Who May Claim the Credit?** You may claim the credit if you maintain a household (pay more than 50 percent of the expenses) for any of the following individuals: a person under the age of 13 for whom you can claim a dependency exemption; a dependent of yours (regardless of age) who is incapable of self-care; or a spouse who is incapable of self-care [IRC Sec. 21(b)(1), (e)(1)].

**(b) "Qualified Expenses" Defined.** "Qualified expenses" are defined as expenses for: (1) household services, and (2) caring for a parent if such expenses enable you to be gainfully employed [IRC Sec. 21(b)(2)(A)]. You can also claim a credit for expenses for the out-of-home care of a dependent other than a child if: (1) the dependent also spends at least 8 hours a day in your household; and (2) the care for the dependent is provided in a qualified dependent care center [IRC Sec. 21(b)(2)].

You must incur the expenses to enable you to be gainfully employed. Your work can be for others or in your own business. It can be either full time or part time. Work also includes actively looking for work. However, if you do not find a job and have no earned income for the year, you cannot take the credit. If you work all summer and pay a babysitter to care for your child or send your under-age-13 child (or children) to day camp so you could work productively don't forget to claim your nonrefundable child or dependent care credit for a portion of those fees. Before you get too greedy, however, keep in mind that amounts you pay for overnight camp do not qualify for the credit [IRC Sec. 21(b)(2); Reg. 1.44A-1(c)(4)].

Expenses for services outside your home qualify for the credit if you incur them for the care of a dependent under age 13. If you have a child who turns 13 in midyear, you can still claim a credit for expenses in that year, but only for those expenses that you incur prior to the child's thirteenth birthday. However, the expense of sending a child to overnight camp does not qualify for the credit [IRC Sec. 21(b)(2); Reg. Sec. 1.44A-1(c)(4)].

You can also claim a credit for expenses for the out-of-home care of an individual, other than a child, if (1) the individual spends at least 8 hours a day in your household and (2) the care is provided in a qualified dependent care center [IRC Sec. 21(b)(2)].

The social security and federal unemployment tax you pay on household and dependent care wages are considered to be part of the total amount paid for household and dependent care.<sup>1</sup>



**(c) Amount of Credit.** In 2002, if you have adjusted gross income of less than \$15,000, and you pay someone to care for your dependent child, your disabled spouse or other disabled dependent, including a parent, you may be able to claim a tax credit of up to 35 percent of up to \$3,000 of employment-related expenses if you have one qualifying child or dependent, or \$6,000 if you have two or more qualifying children or dependents [IRC Sec. 21(b)]. This means that taxpayers with incomes under \$15,000 may claim a credit as high as \$1,050 if they have one qualifying child or dependent and as much as \$2,100 if they have two or more qualifying children or dependents [IRC Sec. 21]. The credit will be reduced to 20 percent of up to \$3,000 of “qualified expenses” if your adjusted gross income exceeds \$43,000. These higher-earners may claim a credit of up to \$600 if they have one dependent and up to \$1,200 if they have two or more dependents.

**Deemed earned income amount increased in 2003.** The amount of your work-related expenses during the tax year may not exceed your earned income for the year. If you are married, the expenses may not exceed the lower-paid spouse’s earnings for the year. This means that a married taxpayer with a nonworking spouse may not be able to claim the dependent care credit unless the nonworking spouse is incapable of taking care of himself or is a full-time student. If the nonworking spouse is incapable of self-care or is a full-time student and therefore has no earned income, IRC Sec. 21(d)(2) provides the dollar limit on deemed earned income of a taxpayer’s spouse who is either (1) a full-time student, or (2) physically or mentally incapable of caring for himself, is \$250 a month beginning in 2003 if there is one dependent and \$500 a month beginning in 2003 if there are two or more dependents.

**Example 1:** In 2003, the taxpayer works full-time outside of her home. She has an infant and a three-year-old child. Her husband is attending medical school and has no other earned income. The taxpayer has adjusted gross income of \$14,000 for the year and pays \$6,000 a year for a live-in nanny. Under IRC Sec. 21(d)(2) her husband’s deemed income is \$500 a month for the 12 months. The couple’s credit would be \$2,100 ( $35\% \times \$6,000$ ) for the year. The 35 percent credit rate is available because the wife’s adjusted gross income is less than \$15,000. If her adjusted gross income had been over \$43,000, the percentage would have been reduced to 20 percent of the work-related expenses and the credit would be \$1,200.

There is an overall limit on the child care credit and the credit for the elderly and permanently disabled [¶2403]. These combined credits are allowed to the extent they do not exceed your tax liability.

**(d) Payments to Relatives.** The credit is available for child care payments you make to a relative, provided you are not eligible to claim a dependency exemption for the relative. If the relative is your child, the child must be at least 19 years of age. [IRC Sec. 21(e)(6); Reg. Sec. 1.44A-4 (a)(1)].

**(e) Filing Requirements.** If you file Form 1040A, you claim the credit by completing Schedule 2 right on that form; you must complete Form 2441, “Child



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

*From 2001 from 1999 AB 166 Bill file*  
*AB 160 Bill file*

December 22, 1998

TO: Representative Spencer Black  
Room 219 North, State Capitol

FROM: Kelsie Doty, Fiscal Analyst

SUBJECT: Individual Income Tax: State Child-Care Credit

At your request, I am providing information on a proposal to provide a state child-care credit equal to a percentage of the federal child-care credit.

### Federal Child-Care Credit

Federal law provides an income tax credit for a portion of qualifying child or dependent care expenses paid for the purpose of enabling the taxpayer to be gainfully employed. To be eligible, a taxpayer must maintain a household for a dependent under age 13 or a disabled spouse or other dependent individual. Qualifying expenses include amounts paid for household services and for the care of the qualifying individual. Services outside the home qualify if they involve the care of a qualified child or a disabled spouse or dependent who regularly spends at least eight hours a day in the taxpayer's home. The credit is not refundable. It may be used to reduce tax liability to zero, but a refund is not issued if the amount of the credit exceeds tax liability.

The maximum amount of expenses that may be considered for the credit is \$2,400 for one child or dependent and \$4,800 for two or more children or dependents, less any employer dependent care assistance payments. The credit percentage is equal to 30% of expenses if adjusted gross income (AGI) is \$10,000 or less. This percentage rate is reduced by 1% for each \$2,000 in income above \$10,000, until the percentage equals 20% for all taxpayers with AGI over \$28,000. For married couples filing joint returns, the credit is limited to the earned income of the lower-earning spouse. Generally, if one spouse is not working, no credit is allowed. Under these provisions, the maximum credit amount is \$720 (30% of \$2,400) for one child and \$1,440 (30% of \$4,800) for two or more children.

## Proposed State Child-Care Credit

Under current law, the state provides a dependent credit of \$50 for each dependent of the taxpayer at an estimated cost of \$65.5 million in 1998-99.

Table 1 shows the estimated cost of also providing a state child-care credit equal to a percentage of the federal credit in 1998-99 dollars. The table shows various state percentages ranging from 75% of the federal credit to 5%. The estimates are based on federal returns filed by Wisconsin residents and the 1995 Wisconsin tax sample.

**TABLE 1**  
**Estimated Cost of**  
**Alternative State Child-Care Credits**

<u>Percent of Federal Credit</u>	<u>Maximum Credit</u>		<u>Estimated Cost (Millions)</u>
	<u>One Child</u>	<u>Two or More Children</u>	
75%	\$540	\$1,080	\$24.9
50	360	720	16.7
25	180	360	8.4
20	144	288	6.8
15	108	216	5.1
10	72	144	3.4
5	36	72	1.7

I hope this information is helpful. Please contact me with any questions you may have.

KD/dls/sas

2-2-97

3pm

Spencer Black

~~federalize~~ individual income tax credit.

state picks up fed child care credit.

50% of fed credit on state tax.

(multiplying line by .5 — credit or tax.)

non-refundable

(restoring 1983 law)

1985 stats  
see 71.09 (120)(a)

from

1999

AB 166

Bill file

From 2001

AB 160

Bill File

from 2001 Bill file

MEMORANDUM

March 14, 2001

**TO:** Marc Shovers  
Legislative Reference Bureau

**FROM:** Yeang-Eng Braun *YEB*  
Department of Revenue

**SUBJECT:** Technical Memorandum on AB 160 - Nonrefundable Individual Income Tax  
Credit for Child/Dependent Care Expenses

The proposed legislation makes no provision for the funding of the costs involved in administering the activities required. If the author wishes to provide funding, appropriation language could be developed and costs allocated in the following manner:

	<u>Chapter 20</u>	<u>Amount</u>	<u>FTE</u>
one-time	s. 20.566 (1) (a)	FY02: \$ 43,800 FY03: \$ 31,200	
annual	s. 20.566 (1) (a)	FY02: \$ 88,100 FY03: \$236,600	0.3 3.2

If you have any questions regarding this technical memorandum, please contact Meredith Krejny at 261-8984.

YEB:MK:ds  
I:\fsn01-02\mk\lab160.tec

## 2003 2004 ASSEMBLY BILL 160

March 1, 2001 - Introduced by Representatives BLACK, MUSSER, PLOUFF, J. LEHMAN, MORRIS-TATUM, LA FAVE, SHILLING, MILLER, MEYERHOFER, BERCEAU, TURNER, WASSERMAN, POCAN and BOCK, cosponsored by Senators ROBSON, RISSER, PLACHE, GEORGE, M. MEYER, BURKE, ROESSLER, BAUMGART and HANSEN. Referred to Committee on Ways and Means.

- 1 AN ACT to create 71.07 (6e) and 71.10 (4) (ce) of the statutes; relating to:  
2 creating a nonrefundable individual income tax credit for certain expenses  
3 related to child or dependent care

and his or her FAGI is less than \$15,000

and

his or her income (FAGI) is less than \$15,000

Federal adjusted gross income (FAGI) is less than \$15,000

\$1,050

semicolon

### Analysis by the Legislative Reference Bureau

Under current federal law there is an individual income tax credit for a portion of qualifying child or dependent care expenses that are paid for the purpose of enabling a taxpayer to be gainfully employed. An eligible claimant must maintain a household for a "qualifying individual," which is defined as a dependent under the age of 13, a disabled spouse, or another disabled individual who is a dependent of the taxpayer. The federal credit is nonrefundable, meaning that no refund is paid if the amount of the credit exceeds the taxpayer's tax liability. <sup>generally,</sup> The maximum credit is \$720 if the taxpayer has one qualifying individual or \$1,440 <sup>\$2,100</sup> if the taxpayer has more than one qualifying individual.

This bill creates a nonrefundable individual income tax credit that is equal to 50% of the amount that is claimed by an individual under this federal credit.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

NOTE  
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

generally,

The maximum credit is phased down as the taxpayer's FAGI increases such that, for a taxpayer with FAGI above \$43,000, the maximum credit <sup>for an individual</sup> ~~for a taxpayer~~ (with one qualifying individual) is \$600 and \$1,200 if the taxpayer has more than one qualifying individual.

the maximum credit is

## ASSEMBLY BILL 160

1           SECTION 1. 71.07 (6e) of the statutes is created to read:

2           71.07 (6e) CHILD AND DEPENDENT CARE EXPENSES CREDIT. (a) *Definitions*. In this  
3 subsection:

4           1. "Claimant" means an individual who is eligible for, and claims, the federal  
5 credit.

6           2. "Federal credit" means the federal tax credit, for expenses for household and  
7 dependent care services necessary for gainful employment, under section 21 of the  
8 Internal Revenue Code.

9           (b) *Filing claims*. Subject to the limitations provided in this subsection, a  
10 claimant may claim as a credit against the tax imposed under s. 71.02, up to the  
11 amount of those taxes, an amount equal to 50% of the amount of the credit claimed  
12 by the claimant under the federal credit in the year to which the claim relates.

13           (c) *Limitations*. 1. No credit may be allowed under this subsection unless it  
14 is claimed within the time period under s. 71.75 (2).

15           2. For a claimant who is a nonresident or part-year resident of this state and  
16 who is a single person or a married person filing a separate return, multiply the  
17 credit for which the claimant is eligible under par. (b) by a fraction the numerator of  
18 which is the individual's Wisconsin adjusted gross income and the denominator of  
19 which is the individual's federal adjusted gross income. If a claimant is married and  
20 files a joint return, and if the claimant or the claimant's spouse, or both, are  
21 nonresidents or part-year residents of this state, multiply the credit for which the  
22 claimant is eligible under par. (b) by a fraction the numerator of which is the couple's  
23 joint Wisconsin adjusted gross income and the denominator of which is the couple's  
24 joint federal adjusted gross income.

## ASSEMBLY BILL 160

Subsection

(1) (d) *Administration.* ~~Section 71.07~~ (9e) (d), to the extent that it applies to the credit under that subsection, applies to the credit under this subsection.

SECTION 2. 71.10 (4) (ce) <sup>✓</sup> of the statutes is created to read:

71.10 (4) (ce) The child and dependent expenses care <sup>✓</sup> credit under s. 71.07 (6e).

SECTION 3. Initial applicability.

(1) This act first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 this act first applies to taxable years beginning on January 1 of the year following the year in which this subsection <sup>✓</sup> takes effect.

(END)



**Barman, Mike**

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**From:** Zimmerman, Terri  
**Sent:** Friday, January 17, 2003 3:01 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB-1457/1 Topic: Nonrefundable individual income tax credit for child, dependent care

It has been requested by <Zimmerman, Terri> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-1457/1 Topic: Nonrefundable individual income tax credit for child, dependent care



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200  
P. O. BOX 2037  
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561  
REFERENCE SECTION: (608) 266-0341  
FAX: (608) 264-6948

STEPHEN R. MILLER  
CHIEF

March 25, 2004

## MEMORANDUM

**To:** Representative Black

**From:** Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

**Subject:** Technical Memorandum to **AB-966** (LRB 03-1457/1)

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We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

## MEMORANDUM

March 22, 2004

**TO:** Marc Shovers  
Legislative Reference Bureau

**FROM:** Dennis Collier  
Department of Revenue

**SUBJECT:** Technical Memorandum on AB 966: Nonrefundable Individual Income Tax Credit  
for Child and Dependent Care Expenses

The proposed legislation makes no provision for the funding of the costs involved in administering the activities required. If the author wishes to provide funding, appropriation language could be developed and costs allocated in the following manner:

	<u>Chapter 20</u>	<u>Amount</u>
one-time	s. 20.566 (3) (a)	\$19,000
annual	s. 20.566 (1) (a)	\$17,600

If you have any questions regarding these administrative costs, please contact Julie Feavel at 267-9892.